

MR653-1430

Serial Number: 10/800,306

Reply to Office Action dated 30 October 2006

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REMARKS

The courtesies extended by the Examiner and his Supervisory Patent Examiner at the 21 December 2006 interview are appreciatively noted at the outset. At the interview, the references further cited by the Examiner in the 30 October 2006 Office Action were discussed in light of the clarifying amendments proposed to the Claims, as set forth herein.

Responsive to the 30 October 2006 Office Action and the discussions had at the interview, Claims 1, 41, and 46-48 are amended for further prosecution with the other pending Claims. Additional dependent Claims 49-53 are also newly-inserted. It is believed that with such amendments, there is a further clarification of the Claims' recitations.

In the Office Action, the Examiner acknowledged that the earlier rejection of claims based upon the Herbert et al. and Newman et al. references were overcome by the Amendment earlier filed on 10 August 2006. The Examiner, however, rejected Claims 1, 25 - 27, 33 - 38, and 45 under 35 U.S.C. § 103(a) under the Herbert et al. reference in view of the Kiehne reference. In setting forth this rejection, the Examiner cited Kiehne for disclosing a hooking structure for fixing a portion of the blade within its protective sheath when a blade disengaging actuator is disengaged from the blade. More specifically, the Examiner pointed to Kiehne's fin 31 for providing such hooking structure.

Also in the Office Action, the Examiner rejected Claims 29 - 32, 40 - 44, and 46 - 48 under 35 U.S.C. § 103(a) as being unpatentable over Herbert et al. and

MR653-1430

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Kiehne further in view of the Newman et al. reference. In this regard, the Examiner cited Newman et al. again for disclosing a guide channel structure in the handle.

As each of the newly-amended independent claims 1, 41, and 46 – 48 now more clearly recites, Applicant's scalpel includes among its combination of features a blade disengaging actuator which operates by "contacting to disengage ... [the] blade" from the scalpel's front handle portion. The blade's housing is formed with at least one "retaining member" forming a hooking structure for fixing there- within a portion of the blade, with such "retaining member unattached to said actuator," as the newly-amended independent claims also clarify.

The full combination of these and other features now more clearly recited by the pending claims is nowhere disclosed by the cited references. While the newly-cited Kiehne reference does provide on its blade guard 11 a button 19 and fin 31 which protrude into the blade's internal slot 13, they depart from the claimed retaining member both in structure and function. Each of Kiehne's button 19 and fin 31 protrudes from the inner wall of a resilient finger 20, an integrally formed resilient tab structure (as shown clearly in the sectional view of Fig. 5C). As Kiehne explains, this "[f]inger" 20 is biased to bias button 19, 50 into slot 13" of the blade (column 5; line 55). When the blade and its guard 11 are coupled for use to the handle 12, the handle's corresponding finger 14 pushes against the button 19 to bias the tab-like finger structure 20 outward, such that the blade is

MR653-1430

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freed for attachment to the handle. Forcefully withdrawing the handle finger 14 from the blade guard 11 thereafter allows the button 19 to return by the bias of the finger 20 into the blade's slot 13.

Consequently, both the button 19 and the "[f]in 31 [which] is also attached to finger 20" (column 6; line 43), are themselves formed as part of the very tab-like finger 20 which deflects to cause engaging or disengaging actuation of the blade. Such actuation precludes any actuator in the blade's housing operable by actually "contacting to disengage said blade," let alone one which cooperates with a retaining member formed in the housing "unattached to said actuator" for fixing therewithin a portion of the blade (as each of the newly-amended independent claims now more clearly recites).

Even when Kiehne's button 19 and fin 31 are permitted to protrude into the blade's slot 13, they serve merely as stops which block the blade's complete escape from the guard 11. In actuality, the blade, with its oversized slot 13, tends to be moveable within the guard 11 about the button 19 and fin 31. Hence, neither the button 19 nor fin 31 of Kiehne serves to actually "fix[] therewithin a portion of said blade," as each of the pending independent claims recites. Nor do they serve to actually retain any portion of the blade "in deflected manner," as newly-inserted dependent claims 49-53 each additionally recite.

It is respectfully submitted, therefore, that the Herbert et al., Kiehne, and Newman et al. references, even when considered together, fail to disclose the

MR653-1430

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unique combination of elements now more clearly recited by Applicant's pending

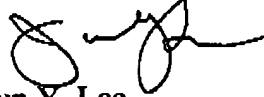
Claims for the purposes and objectives disclosed in the subject Patent Application.

It is now believed that the subject Patent Application has been placed fully in condition for allowance, and such action is respectfully requested.

If there are any charges associated with this filing, however, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,

For: ROSENBERG, KLEIN & LEE



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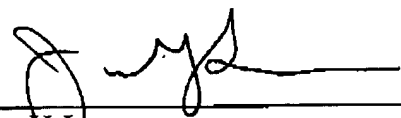
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